

United States Bankruptcy Court  
Eastern District of Wisconsin  
Local Bankruptcy Rules Committee  
Federal Court House, Room 126  
January 17, 2006 at 3:00 p.m.

In attendance: Brett Pfeifer, Pete Blain, Christine Wolk, Thomas King, Honorable Margaret D. McGarity, Jeffrey Nordholm (Chair), John Foscatto, Mary Grossman, Christopher Austin, Larry Liebzeit, Tonya Trumm and Ralph C. Anzivino (Reporter).

Chris Austin acted Chair at the request of Chair, Jeff Nordholm who had a hearing at the time of the start of the meeting. Mr. Austin convened the meeting as scheduled, and determined that a quorum was present.

The next order of business was a discussion of LR 4001.1—Pre-Confirmation Adequate Protection Payments. Tom King presented a draft of a rule for consideration by the committee. The draft rule contains more detail than the current standing order. The committee concluded that the additional detail was beneficial. The committee recommended that the adequate protection payments be made in a sum-certain and not pursuant to a formula. The rule was revised accordingly.

The third agenda item was Proposed LR 3015--Modification of Chapter 13 Plans. Notice of proposed Modifications and Hearing on Objections. Mr. Tom King presented the draft for the committee's consideration. After discussion it was agreed to clarify subsection b. by adding the word "materially" to modify "adverse" to specify that only materially adverse pre-confirmation plan changes require notice. The committee voted 9-0 in favor of the rule as modified.

A query was raised whether notices after a plan extension were covered by this rule. It was the consensus of the committee that such notices were not covered by this rule.

Subsection c. of the rule provides for an affidavit of no objection to be filed with the court. The committee recommended that the "affidavit of no objection" be defined to include an attorney/trustee certification of no objection, which is permitted to be filed electronically. Jeff Nordholm agreed to provide a draft of such a definition to the committee.

The fourth agenda item was to consider the relationship between LR 1002.2 and LR 5005.1. Should the two rules be merged or be separately kept to address different issues? The committee recommended to eliminate "maintain" from LR 1002.2 so it designates that paper copies of the petition and schedules be brought to the 341 meeting. LR 5005.1 will then designate what documents must be maintained and for how long. The committee voted 7-0 in favor of the rules as modified.

The fifth agenda item was a discussion of LR 1007.5—Disclosures Required Prior to Discharge. These disclosures are also addressed in the interim amendments to national rules (Rule 1007(b)(8)). Jeff Nordholm took the lead on this local rule. He indicated that he started with the local standing order, reorganized it, and added some statutory references. He deleted the prior reference in the standing order to a chapter 11 DSO declaration, since BAPCPA does not appear to require it. He further suggested that the committee include a form discharge certification in the Appendix. Jeff Nordholm volunteered to draft the form for inclusion in the Appendix. It was further noted that in subsection (b) (2) of the rule that the language should just reference a “claim holder” and to delete the word “current.” Finally, it was noted that the comment to the section should also delete the reference to a “current support obligation.” As modified, the proposal passed 8-0 in favor.

The sixth agenda item was the Model Chapter 13 Plan. Brett Pfeiffer, Chair of the Subcommittee drafting the Model Chapter 13 Plan, indicated that the Model Plan has been circulated to this committee and his subcommittee, and all comments are to be returned by January 19, 2006. Since the Model plan is not required to be used, no local rule is needed to require such.

The seventh agenda item was whether any other rule changes were needed. The committee reviewed the Court’s current standing order and concluded that #5 of the standing order should be included as a local rule. Chris Austin volunteered to draft such a local rule.

The last item for consideration was a discussion of the process to secure public comment on the local rule modifications required by BAPCPA. Chris Austin was able to provide the committee with a copy of the public notice used the last time the local rules were amended. The Clerk’s office was responsible for providing the public notice, and a 45-day period was provided between the notice and public hearing. The notice will be placed on the court’s web site and hard copies of the notice will be sent to routine filers. In addition to public comment on the day of the hearing, persons may submit comments to the Chair of the committee during the 45-day period. Jeff Nordholm and Chris Austin agreed to study whether persons would be able to comment telephonically on the day of the public hearing. Ideally, the committee would like to complete its work by the end of January with a potential hearing in mid-march. Tuesday, March 14 at 4:00pm was discussed as a possible date and time for the public hearing.

In light of the fact that the few remaining items to be drafted and reviewed were of a minor nature, it was agreed that the vote on those items would be done by email as the items are disseminated to the committee members.

No further meetings of the committee were scheduled, and the committee adjourned at 5:00pm.

Minutes prepared by Ralph C. Anzivino, Reporter.